

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NOS. 5:15CV57-RLV; 3:15CV211-RLV

ROMONA WINEBARGER,)
and REX WINEBARGER,)
Plaintiffs,)
)
v.)
)
BOSTON SCIENTIFIC)
CORPORATION,)
Defendant.)

SCHEDULING
ORDER

MARTHA CARLSON,)
Plaintiff,)
)
v.)
)
BOSTON SCIENTIFIC)
CORPORATION,)
Defendant.)

THIS MATTER is before the court upon transfer from consolidated pretrial proceedings in the Southern District of West Virginia, *In Re Boston Scientific Corporation Pelvic Repair System Products Liability Litigation, MDL No. 2326*, and remand to this Western District of North Carolina for trial. On May 15, 2015, the above-captioned cases were consolidated for all purposes, including jury trial. *See* Fed. R. Civ. P. 42(a)(1).

IT IS, THEREFORE, ORDERED THAT:

- 1) Trial Date. Jury trial will be held during a special term in October 2015 in the Statesville Division. Jury selection will commence on **Monday, October 5, 2015 at 10:00 a.m.**

Opening statements and the presentation of Plaintiffs' evidence will begin immediately following the impaneling of the jury.

2) Deposition Designations. If counsel intend to use depositions at trial, counsel are directed to resolve any objections prior to trial. With respect to video depositions, counsel are expected to edit the video in such a way that the video may be shown without interruption.

In order to facilitate this process, deposition designations shall be filed by **Monday, June 15, 2015**. The designations shall specifically identify exhibits to be offered through the deposition testimony. Any objections to an opposing party's designations and the accompanying exhibits, and any counterdesignations and accompanying exhibits, shall be filed by **Monday, June 29, 2015**. Any objections to the counter-designations and exhibits, and any counter-designations to an opposing party's counterdesignations, shall be filed by **Monday, July 13, 2015**. No additional testimony may be designated after **July 13, 2015** absent leave of Court. The parties shall meet and confer no later than **Monday, July 20, 2015** to resolve objections to testimony and exhibits and to resolve any proposed redactions to exhibits. Any unresolved objections shall be presented to The Honorable U.S. Magistrate Judge David C. Keesler for resolution at a hearing to be held **on or about the week of August 3, 2015**.

Failure to accomplish this prior to trial will result in objections being deemed to be waived.

3) Judicial Settlement Conference. Pursuant to Local Civil Rules 16.2(A) and 16.3(D), the parties shall participate in a Judicial Settlement Conference with U.S. Magistrate Judge Keesler **on or about the week of August 31, 2015**.

4) Motions In Limine. All motions in limine shall be filed **on or before Monday, September 14, 2015**. Responses shall be due **on or before Monday, September 28, 2015**. It is the practice of the Court to defer ruling on motions in limine raising evidentiary issues until the

evidence is underway and the question of admissibility is squarely presented at trial. Absent specific direction from the undersigned judge, issues raised in motions in limine may not be referenced or mentioned in any way during either *voir dire* or opening statements.

5) Proposed Jury Instructions / Verdict Form. The parties shall submit proposed jury instructions and a proposed verdict form **on or before Monday, September 21, 2015.** Counsel should number each proposed instruction and submit each instruction on a separate page. Each proposed instruction must contain a supporting citation(s) as a footnote. A proposed instruction submitted without supporting adequate legal authority may not be considered. Counsel need not submit introductory or preliminary boilerplate instructions. In addition to filing proposals via CM/ECF, counsel shall also provide the Judge's Chambers with Word document versions of their proposals.

6) Counsel's Obligations Two Weeks Before Trial. On or before September 21, 2015, counsel for all parties shall:

- (a) File a Trial Brief addressing all questions of law and any anticipated evidentiary issues not previously raised in a motion in limine;
- (b) Exchange copies of exhibits or permit inspection if copying is impractical;
- (c) Submit copies of all exhibits to the Courtroom Deputy in a format compatible with JERS (*See Paragraph 8*); and
- (d) Agree upon Stipulations of Fact and file with the Court.

7) Counsel's Duties First Day Of Trial. On or before October 5, 2015, counsel for each party shall file the following:

- (a) A Witness List containing the name of every proposed witness;

- (b) A statement of the education, experience, and qualifications of each expert witness, unless the parties have stipulated to the qualifications of each expert witness;
- (c) Stipulations concerning the authenticity of as many proposed exhibits as possible; and
- (d) An Exhibit List and / or Exhibit Notebook(s) for the Judge's Chambers' out-of-court use. (See Paragraph 8).

8) Presentation of Exhibits / Jury Evidence Recording System (“JERS”). Parties are expected to use presentation technology available in the courtroom to display evidence to the jury. Training on the equipment should be arranged well in advance of trial with the courtroom deputy. (See “Courtroom Technology” link on the district website at www.ncwd.uscourts.gov.) Counsel shall provide in electronic format any exhibits of documents, photographs, videos, and any other evidence that may be reduced to an electronic file, for the use of Court personnel and the Court’s Jury Evidence Recording System (“JERS”) during trial. Documents and photographs shall be in **.pdf, .jpg, .bmp, .tif, or .gif** format. Video and audio recordings shall be in **.avi, .wmv, .mpg, .mp3, .wma, or .wav** format. Each electronic exhibit shall be saved as a separate, independent file, and provided to the Court on a storage device, such as cd, dvd, or flash drive. Exhibit files shall be named consistent with their order and name on the exhibit list. For example:

Exhibit 1 – photograph of . . .

Exhibit 2 – contract

Exhibit 3 – video deposition of . . .

If counsel for any party intends to tender more than fifteen (15) documentary exhibits, counsel for that party shall prepare one (1) exhibit notebook, or set of notebooks, for the Court’s

out-of-court use. Each exhibit notebook, shall contain an index listing all of the exhibits and a copy of each exhibit. Counsel shall tab each exhibit and shall numerically arrange each exhibit notebook, or set of exhibit notebooks.

Signed: May 26, 2015



Richard L. Voorhees
United States District Judge

